# EXHIBIT B

# If You Made a Percentage Co-Payment for any of the Drugs Listed Below or You are the Heir to Someone Who Has,

# **Class Action Lawsuits May Affect Your Rights**

Albuterol Sulfate Procrit (epoetin alfa)

Blenoxane (bleomycin sulfate) Proventil (albuterol)

Cytoxan (cyclophosphamide) Remicade (infliximab)

**Etopophos** (etoposide phosphate) Rubex (doxorubicin hcl)

Intron A (interferon alfa) Taxol (paclitaxel)

Paraplatin (carboplatin) Temodor (temozolomide)

Perphenazine VePesid (etoposide)

**Zoladex** (goserelin acetate)

The District Court has authorized this Notice. It is not a solicitation from a lawyer. You are not being sued.

[Insert in Spanish: For More Information On This Lawsuit Visit <a href="www.AWPLitigation.net">www.AWPLitigation.net</a>]

- Lawsuits claim that certain drug companies reported false and inflated average wholesale prices ("AWP") for certain types of outpatient drugs. The reported AWPs may be used to set the price that consumers making percentage co-payments will pay for the drugs. The lawsuits claim consumers making percentage co-payments paid more than they should have because of the false and inflated AWPs. The lawsuit asks the Court to award money damages to people that made percentage co-payments for the drugs in Massachusetts. Defendants deny the claims asserted in the lawsuits.
- The Class consists of people who made co-payments for certain drugs ("Covered Drugs") manufactured and marketed by Defendants AstraZeneca, Bristol-Myers Squibb Group, Johnson & Johnson Group and the Schering Plough Group.
- Certain dosages of the following Covered Drugs are included in the Class: Albuterol Sulfate, Blenoxane (bleomycin sulfate), Cytoxan (cyclophosphamide), Etopophos (etoposide phosphate), Intron A (interferon alfa), Paraplatin (carboplatin), Perphenazine, Procrit (epoetin alfa), Provintil (albuterol), Remicade (infliximab), Rubex (doxorubicin hcl), Taxol (paclitaxel), Temodor (temozolomide), VePesid (etoposide) and Zoladex (goserelin acetate).

- The Court has said that the lawsuits can proceed on behalf of people who made a percentage co-payment for a Covered Drug between January 1, 1991 and January 30, 2006. If you are an heir or legal successor to the rights of someone who made such a co-payment, you are also included in the Class. See Question 7 to see if you are a member of the Class.
- The Court has determined that the case can go forward as a class action but has not made a decision on the merit of the claims. A trial will determine whether the claims in this lawsuit against each Defendant listed above are true. The trial begins on November 6, 2006.
- If you were covered under Medicare with respect to treatment involving any of these drugs and made co-payments in connection with such treatment, you are not part of this Class. You may be a member of a different Class of Medicare beneficiaries. To find out if you may be a member of this separate Class, call xxx-xxxx or visit www.awplitigation.net.
- These lawsuits are not about the safety and effectiveness of these drugs.

This Notice explains what your rights and choices are as a member of the Class. You must make a choice now regarding your rights. Please read all of this Notice carefully.

# A SUMMARY OF YOUR RIGHTS AND CHOICES:

You May:		Due Date
Remain in Lawsuit	Stay in the lawsuit and wait for the result.  By doing nothing, you stay in the lawsuit and may share in any recovery, if there is one, but you give up the right to sue the Defendants yourself about the claims in the lawsuit. You will also be bound by the outcome of any trial.	Do Nothing
Exclude Yourself	Get out of the Class. You can write and ask to get out of the lawsuit. If any money or benefits are awarded later in a trial or settlement, you will not get these benefits, but you keep the right to sue the drug companies on your own about the claims in the lawsuit. See Questions 9-11.	Postmarked by  November 3, 2006
Appear In The Lawsuit	Participate in the lawsuit on your own or through a lawyer.  If you don't exclude yourself, you can appear and speak in the lawsuit on your own or through your own lawyer. (Class Counsel has been appointed to represent you) See Questions 12 and 13.	Filed by November 6, 2006

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# **BASIC INFORMATION**

# 1. Why did I get this Notice?

Lawsuits have been filed against a number of drug companies on behalf of people who paid for one or more of the drugs – called "Covered Drugs" – see Question 8. You received this Notice because you requested a copy.

You have legal rights and choices to make before a trial will decide whether the claims being made against the Defendant drug companies on your behalf are true. The trial begins on November 6, 2006. You must make you choice whether to remain in the Class or exclude yourself before November 3, 2006.

This Notice explains:

- What the lawsuits are about, and why they are class action lawsuits.
- What the lawsuits claim and what the drug companies say about the claims.
- Who is affected by the lawsuits.
- Who represents the class in the lawsuits.
- What your legal rights and choices are.
- How and by when you need to act.

### 2. What are these lawsuits about?

Plaintiffs allege Defendant drug companies either report the average wholesale price ("AWP") of each drug they make to trade publications or provide those publications with information from which the publications calculate an AWP for each of Defendants' drugs. The published AWP of a drug may be used to set the price that consumers making percentage co-payments will pay for the drug. The lawsuits claim that consumers making percentage co-payments paid more than they should have paid for the Covered Drugs because drug companies intentionally reported false and inflated AWPs concerning these drugs.

The Court in charge of the lawsuits is the United States District Court for the District of Massachusetts. The name of the lawsuit is *In re: Pharmaceutical Industry Average Wholesale Price Litigation*, Docket No. 01-CV-12257-PBS. The people who sued are called the Plaintiffs. The drug companies they sued are called the Defendants.

The lawsuits include 42 Defendants. At this time, the Court has certified a separate Class of people who made percentage co-payments in Massachusetts for Covered drugs manufactured by the Defendants listed below. This Class is called the Private Payor Class.

- AstraZeneca (which includes AstraZeneca Pharmaceuticals L.P.),
- The <u>Bristol-Myers Squibb</u> Group (which includes: Bristol-Myers Squibb Co.; Oncology Therapeutics Network Corp.; and Apothecon, Inc.),

- The <u>Johnson & Johnson</u> Group (which includes: Johnson & Johnson; Centocor, Inc.; Ortho Biotech Products, L.P), and
- The <u>Schering Plough</u> Group (which includes: the Schering-Plough Corporation; and Warrick Pharmaceuticals Corporation)

Whenever you see the word "Defendants" in this Notice, it includes only the companies listed above: AstraZeneca, Bristol-Myers Squibb Group, the Johnson & Johnson Group and the Schering Plough Group.

If you were covered under Medicare with respect to treatment involving any of these drugs and made co-payments in connection with such treatment, you are not part of this Class. You may be a member of a different Class of Medicare beneficiaries. To find out if you may be a member of this separate Class, call xxx-xxxx-xxxx or visit www.awplitigation.net.

# 3. Why are these class actions?

In a class action lawsuit, one or more people called "class representatives" sue on behalf of people who have similar claims. The people together are a "class" or "class members." The court must determine if it will allow the lawsuit to proceed as a class action. If it does, a trial of the claims then decides the lawsuit for everyone in the class. The Court in this lawsuit certified a separate class of people who made percentage co-payments for drugs manufactured by each Defendant.

# THE CLAIMS IN THE LAWSUITS

### 4. What do the Plaintiffs claim?

The Plaintiffs claim that the Defendants violated various state consumer protection laws because they intentionally provided false and inflated AWPs on certain types of outpatient drugs, including the Covered Drugs. The lawsuit also claims that the Defendants intentionally reported inflated AWPs with the knowledge that insurers, doctors and pharmacies rely on reported AWPs to determine the prices they will charge consumers for those drugs. The lawsuit says that as a result of the inflated AWPs, people who made percentage co-payments paid more than they should have. The lawsuit asks the Court to award money damages to those people.

# 5. What do the Defendants say about the claims?

The Defendants deny the factual allegations being made; contend that the lawsuits and damages are precluded under the law; contend that the alleged conduct, if proved, does not violate the consumer protection laws, and that many class members will not be able to establish elements required by the consumer protection laws, or prove they paid a doctor for the subject drugs.

In addition, Bristol-Myers Squibb points out that it does not report AWPs; it reports list prices at which a substantial percentage of its sales are made. The Johnson & Johnson Group says that Plaintiffs did not calculate Johnson & Johnson's drug prices correctly and, when these errors are corrected, it is obvious that the published prices for Johnson & Johnson drugs were not inflated. The Johnson & Johnson Group points out that it did not give doctors discounts on the drug

Remicade, and the small discounts it gave to doctors on the drug Procrit were disclosed. The Johnson & Johnson Group says its drugs are less expensive than competing therapies, so Class Members who received Johnson & Johnson's products saved money. The Schering Plough Group states that its reporting practices are consistent with standard industry practice and that – at least with respect to its generic product - - reimbursement is almost never based on their AWPs.

# 6. Has the Court decided who is right in the lawsuit?

No. The Court hasn't decided who is right in the lawsuit yet. By deciding now that the lawsuit can continue as a class action, the Court isn't saying who will win.

# WHO ARE CLASS MEMBERS?

To know if you're affected by this lawsuit, you first should determine if you're a member of the Class.

# 7. Am I a Member of the Private Payor Class?

You're a member of the Class and part of this lawsuit if you are a resident of Massachusetts, <u>and</u> between January 1, 1991 and January 30, 2006, you paid (or are currently obligated to pay) a <u>percentage co-payment</u> for any of the Covered Drugs (listed in Question 8) that were manufactured and marketed by the Defendants. The Class and the drugs involved are as follows:

Defendant Class	Subject Drug(s)
AstraZeneca Class	Zoladex (goserelin acetate)
Bristol-Myers Squibb Class	Blenoxane (bleomycin sulfate) Cytoxan (cyclophosphamide)
	Etopophos (etoposide phosphate)
	Paraplatin (carboplatin)
	Rubex (doxorubicin hcl)
	Taxol (paclitaxel)
	VePesid (etoposide)
Johnson & Johnson Class	Remicade (infliximab)
Johnson & Johnson Class	Procrit (epoetin alfa)
Schering Plough Class	Albuterol Sulfate
	Intron A (interferon alfa)
	Perphenazine
	Proventil (albuterol)
	Temodor (temozolomide)

Stated in more detail, you are a member of the Class if you fulfill the criteria listed in either 1, 2, or 3 below.

- 1. You are in the Class if you: (a) made a percentage co-payment between January 1, 1991 and January 30, 2006, (b) received one or more of the Covered Drugs during that time period in Massachusetts, and (c) paid your doctor for one or more of the drugs. You are not in the Class if you paid a flat amount such as \$10 or \$20 per dose or if you were fully reimbursed for your payment by a private insurer.
- 2. You are in the Class if you are the legal heir of, or the legal successor to, the rights of a person who made a percentage co-payment who met all three criteria set forth in "1" immediately above but who is now deceased. You need to consult your own lawyer to determine if you are the legal successor to any such rights. Your lawyer will help you determine whether you qualify as a "legal heir" under state laws of intestacy, will, trust, or any other applicable law.
- 3. You are a member of the Class if you: (a) made a percentage co-payment between January 1, 1991 and January 30, 2006, (b) received one or more of the Covered Drugs during that time period in Massachusetts, and (c) incurred a "legal obligation" to pay your doctor a percentage co-payment for one or more of the drugs but did not do so. You may have incurred a "legal obligation" if (a) your doctor billed either you or your insurer for one or more of the drugs but neither you nor your insurer paid, or (b) if you did not pay because your doctor did not bill you, and (c) the time period for bringing a legal claim against you to enforce payment for one or more of the drugs has not already expired under the law.

If you were covered under Medicare with respect to treatment involving any of these drugs and made co-payments in connection with such treatment, you are not part of this Class. You may be a member of a different Class of Medicare beneficiaries. To find out if you may be a member of this separate Class, call xxx-xxxx-xxxx or visit www.awplitigation.net.

**IMPORTANT:** This is not a bill or a collection notice. The Court is not suggesting, requesting or requiring that consumers who were billed for one or more of the aforementioned drugs but did not pay, or were not billed at all should pay their doctors now or that they are obligated to do so.

### You are also **not** part of the Class if:

- (a) You were fully reimbursed for the co-payment you made (for example, a second private insurer reimbursed you the full amount); *or*
- (b) Your co-payment was a flat amount instead of a percentage of the total charge (for example, your private insurer paid for all of the co-payment except for a flat amount such as \$10 or \$20 that you had to pay). If your co-payment is a set dollar amount and does not differ with the price of the drug, your co-payment is a flat co-payment and <u>not</u> a percentage co-payment and you are not a member of the Class.

# WHAT ARE THE COVERED DRUGS?

# 8. How can I tell if the drug I took is included as a Covered Drug?

Most, but not all, of the Covered Drugs are ones that a doctor administers to you in the form of an injection – either through a shot, an IV, or an implant beneath the skin. A few are drugs that you take yourself, such as the pill forms of Cytoxan and VePesid – cancer therapy drugs. Most of the Covered Drugs are used for the treatment of various types of leukemia and cancers of the breast, ovaries, cervix, prostrate, testes, lung, brain, and bone marrow. Other Covered Drugs are used to treat nausea or anemia resulting from cancer therapy, asthma, migraines, heart problems, leukemia, herpes, psychoses, or rheumatoid arthritis.

The Covered Drugs, by Defendant, are listed below:

<u>AstraZeneca</u>
AstraZeneca, AstraZeneca Pharmaceuticals and AstraZeneca U.S.

Drug Name	Treatment	Dosages
Zoladex (goserelin acetate)	Prostrate and breast cancer; Endometriosis	Implant: 3.6mg Injection (3 month): 10.8mg Kit for injection: 10.8mg syringe; 3.6mg syringe

# **Bristol-Myers Squibb Group**

Bristol-Myers Squibb, Oncology Therapeutics Network and Apothecon

Drug Name	Treatment	Dosages
Blenoxane (bleomycin sulfate)	Cancer of cervix and uterus, head and neck, or testicle and penile cancer; Hodgkin's disease	Powder for Injection: 15 Unit Vial; 30 Unit Vial
Cytoxan (cyclophosphamide)	Cancer (primarily breast, ovarian); Leukemia; Nephrotic syndrome (kidney disease)	Injection: 100mg; 200 mg; 500mg; 1gm; 1x2gm; Lyophilized Injection: 100mg; 200mg; 500mg Powder for Injection: 500mg; 1gm; 2gm Tablets: 25mg; 50 mg
Etopophos (etoposide phosphate)	Lung and testicular cancer; Cancer of the lymph glands; Leukemia	Powder for Injection: 100mg

Paraplatin (carboplatin)	Ovarian cancer	Powder for Injection: 50mg; 150mg; 450mg
Rubex (doxorubicin hcl)	Ovarian and breast cancer; Cancers of the bone, stomach, lung, bladder and thyroid; Leukemia	Powder for Injection: 10mg; 50mg; 100mg Powder for Injection (Under Immunex label): 10mg; 50mg; 100mg
Taxol (paclitaxel)	Ovarian and breast cancer; Lung cancer; Kaposi's sarcoma	Injection: 30mg; 30mg/5ml; 300mg/50ml Injection Solution: 100mg; 100mg/16.7ml
VePesid (etoposide)	Testicular cancer; Small cell lung cancer	Injection Solution: 100mg; 150mg; 500mg; 1gm Capsules: 500mg

# Johnson & Johnson Group

Johnson & Johnson, Centocor, Ortho Biotech, McNeil-PPC and Janssen Pharmaceutica Products

Drug Name	Treatment	Dosages
Remicade (infliximab)	Rheumatoid arthritis; Crohn's disease; Ulcerative colitis	Intravenous Injection: 100 mg vial
Procit (epoetin alfa)	Anemia (especially anemia due to chemotherapy or HIV)	Solution for Injection: 2,000 Unit/ml; 3,000 Unit/ml; 4,000 Unit/ml; 10,000 Unit/ml; 20,000 Unit/ml; 40,000 Unit/ml

Schering Plough Group
Schering Plough and Warrick Pharmaceuticals

Drug Name	Treatment	Dosages
Albuterol Sulfate	Asthma, chronic bronchitis, emphysema, and other lung diseases	Inhalation Solution Sulfate Inhalation Solution
Intron A	Melanoma, leukemia, hepatitis B and C, lymphoma, Kaposi's sarcoma	Solution for Injection: 10million, 18million, 30million, 60 million multidose pen;

		3million, 5million, 10million, 18million, 25 million unit HSA-Free vials  Powder for Injection: 3million, 5million, 10million, 18million, 25 million, 50million unit vials
Perphenazine	Psychiatric disorders; Severe nausea and vomiting	Tablets: 2mg; 4mg; 8mg; 16mg
Proventil	Asthma, bronchitis, and emphysema.	Inhalation Solution: 5mg/ml; .83mg/ml
Temodar	Cancerous brain tumors	<u>Capsules:</u> 5mg; 20mg; 100mg; 250mg

Please carefully review the list of Covered Drugs. If your doctor gave you or prescribed one or more of these drugs in the listed forms and dosages during the time periods listed in Question 7 you might be a member of the Class. To determine if you are a member of the Class please read Question 7.

# YOUR RIGHTS - GETTING OUT OF THE CLASS ACTION

# 9. Can I get out of the lawsuit and the Class?

If you don't want to be in the Class and you want to keep the right to sue the Defendants about the same claims on your own, you must take steps to get out of the Class. This is called excluding yourself. By excluding yourself, you keep the right to file your own lawsuit or join another lawsuit against the Defendants about the claims in this lawsuit. You may exclude yourself from the litigation against one or more Defendants and remain in the litigation against the other Defendants. If you exclude yourself from the Class, you will not be bound by the results of the trial against Defendants.

# 10. How do I exclude myself from the Class?

To exclude yourself from the Class, you can (a) fill out and mail the attached opt-out form or (b) send a letter signed by you that includes all of the following:

- Your name, address, and telephone number;
- The name and number of the lawsuit: *In re: Pharmaceutical Industry Average Wholesale Price Litigation*, Docket No. 01-CV-12257-PBS;
- If you have hired your own lawyer, the name, address, and telephone number of your lawyer; *and*
- A statement that you want to be excluded from the Class, specifying whether you wish to exclude yourself from the litigation against all Defendants or just some of the Defendants. If you wish to exclude yourself from the litigation against less than all Defendants you must specify which Defendants by name.

Your exclusion letter must be mailed first class, **postmarked on or before November 3, 2006,** to:

AWP Litigation Administrator, c/o Complete Claim Solutions, LLC P.O. Box 24654 West Palm Beach, FL 33416

Please remember that you can't exclude yourself by phone or by sending an email.

# 11. What happens if I exclude myself from the lawsuit?

If you exclude yourself from the Class, you will not get money or benefits from the Class if any are obtained from a settlement or trial of the lawsuit involving the remaining Defendants. If you exclude yourself, you're no longer part of the Class, and nothing that happens in the lawsuit affects you. But you can sue or be part of a different lawsuit against the Defendants about the claims in this case.

If you do not exclude yourself, you will be bound by the results in the lawsuit. Thus, if Defendants win, your claim will be extinguished. Defendants claim that the persons and entities representing your interests do not have a valid claim, and if that is correct, your claim will be extinguished unless you exclude yourself.

# YOUR RIGHTS - APPEARING IN THE LAWSUIT

# 12. Can I appear or speak in this lawsuit?

As long as you don't exclude yourself, you can (but do not have to) participate and speak for yourself in this lawsuit through your own lawyer. This is called making an appearance. Remember that you may have to pay for the lawyer yourself. If you appear in the lawsuit, you are still a member of the Class and can share in any benefits the Class might receive as a result of settlement or a trial.

# 13. How do I appear in this lawsuit?

If you want your own lawyer instead of Class Counsel to participate or speak for you in this lawsuit, your lawyer must give the Court a paper that is called a Notice of Appearance. The Notice of Appearance should include the name and number of the lawsuit, and state that you wish to enter an appearance in the lawsuit.

The Notice of Appearance must be filed with the Court at the following address:

Clerk of Court John Joseph Moakley U.S. Courthouse 1 Courthouse Way, Suite 2300 Boston, Massachusetts 02210

The Notice of Appearance must be filed using the following Civil Action Number:

01-CV-12257-PBS

Your Notice of Appearance should be filed with the Court before the beginning of the trial of each Defendant in this lawsuit. The trial will begin November 6, 2006.

# IF YOU DO NOTHING

# 14. What happens if I don't do anything at all?

If you do nothing, you stay in the Class. As a member of the Class, you will be bound by the results of the trial, whether those results are favorable or unfavorable to the Class, and you will not be able to sue any Defendant(s) on your own. Depending on the outcome of the Class trial or trials or other rulings by the Court, in the future Class Members may be asked to provide information regarding the drugs they paid for in order to claim a portion of any class recovery. You will receive further instructions at that time explaining what information you are required to furnish and where and when to send it if there is a recovery or settlement. There is no recovery or settlement at this time.

# THE LAWYERS REPRESENTING YOU

## 15. Do I have a lawyer in this lawsuit?

Yes. The Court has appointed the following law firms to represent you and other Class Members:

Hagens Berman Sobol Shapiro LLP <a href="https://www.hagens-berman.com">www.hagens-berman.com</a>
1301 Fifth Avenue, Suite 2900
Seattle, WA 98101

and
One Main Street, 4<sup>th</sup> Floor

Mark H. Edelson Edelson & Associates LLC 45 West Court Street Doylestown, PA 18901

Cambridge, MA 02142

Spector Roseman & Kodroff, PC www.srk-law.com
1818 Market Street, Suite 2500
Philadelphia, PA 19103

Wexler Toriseva Wallace LLP <a href="https://www.wtwlaw.us">www.wtwlaw.us</a>
One North LaSalle St., Suite 2000 Chicago, IL 60602

Haviland Law Firm LLC www.havilandlaw.com 740 South 3<sup>rd</sup> St., 3<sup>rd</sup>. Floor Philadelphia, PA 19147

These lawyers are called Class Counsel. You won't be charged personally for these lawyers, but they will ask the Court to award them a fee to be paid out of any recovery. More information about Class Counsel and their experience is available at the Web sites listed above.

# 16. Can you elaborate on who pays the lawyers and how much will they be paid?

If Class Counsel obtains money or benefits for the Class through a settlement or a successful trial, they will ask the Court for payment of attorneys' fees and expenses out of the total amount of money and benefits obtained. The Court must approve the amount of attorneys' fees and

<u>expenses</u>. If Class Counsel doesn't obtain any money or benefits for the Class, they won't receive or ask to receive any attorneys' fees or reimbursement of expenses.

# 17. Should I get my own lawyer?

You don't need to hire your own lawyer, but if you want your own lawyer to speak for you or appear in Court, you must file a Notice of Appearance (*see* Questions 12 and 13 to find out how to submit a Notice of Appearance). If you hire a lawyer to appear for you in the lawsuit, you will have to make your own arrangement for that lawyer's compensation.

# **GETTING MORE INFORMATION**

### 18. Are more details and information available?

This Notice is just a summary of the lawsuit. More details are in the Complaint filed by Class Counsel, and the other legal documents that have been filed with the Court in this lawsuit. You can look at and copy these legal documents at any time during regular office hours at the Office of the Clerk of Court, John Joseph Moakley U.S. Courthouse, 1 Courthouse Way, Suite 2300, Boston, Massachusetts 02210. Copies of some of the important documents, like the Complaint are also available on-line at <a href="https://www.AWPlitigation.net">www.AWPlitigation.net</a>.

In addition, if you have any questions about the lawsuit or this Notice, you may:

- Visit the AWP Litigation Web site at <u>www.AWPitigation.net</u>
- Call toll free 1-800-419-5391 (For the deaf and hard-of-hearing utilizing a TDD/TTY, please call 1-8XX-XXX-XXXX)
- Write to: AWP Litigation Administrator, c/o Complete Claim Solutions, LLC, P.O. Box 24654, West Palm Beach, FL 33416.

# 19. How will I be notified about the outcome of the trial?

Information about the trial will be posted on the Web site as appropriate. You may also register on the Web site or by mail to get notification of the outcome of the litigation and other significant occurrences associated with this case. To register by mail send a letter to the AWP Litigation Administrator at the address above. To register on the Web site, go to the site and access the "Registration" link on the Web site menu.

By Oraer of the Unitea States District	Court, District of Massachusetts.
Date:	
	The Honorable Judge Patti B. Saris